

IC 20-46-6

Chapter 6. Capital Projects Levy

IC 20-46-6-1

"Fund"

Sec. 1. As used in this chapter, "fund" refers to the capital projects fund.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-2

"Levy"

Sec. 2. As used in this chapter, "levy" refers to a levy imposed under this chapter.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-3

"Plan"

Sec. 3. As used in this chapter, "plan" refers to a plan adopted or amended under this chapter.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-4

"Qualified utility and insurance costs"

Sec. 4. As used in this chapter, "qualified utility and insurance costs" refers to costs described in IC 20-40-8-19.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-5

Governing body may impose property tax rate; amount; advertisement

Sec. 5. Subject to IC 6-1.1-18-12 and IC 6-1.1-18.5-9.9, to provide for the fund, the governing body may, for each year in which a plan is in effect, impose a property tax rate that does not exceed forty-one and sixty-seven hundredths cents (\$0.4167) on each one hundred dollars (\$100) of assessed valuation of the school corporation. The actual rate imposed by the governing body must be advertised in the same manner as other property tax rates.

As added by P.L.2-2006, SEC.169. Amended by P.L.154-2006, SEC.69.

IC 20-46-6-6

Additional levy; qualified utility and insurance costs

Sec. 6. (a) This section applies only for a calendar year for which IC 20-40-8-19 permits a school corporation to pay qualified utility and insurance costs from the fund.

(b) For a year in which a school corporation uses money from the school corporation's fund to pay for qualified utility and insurance costs, the school corporation may impose a property tax rate that exceeds the rate described in section 5 of this chapter. The amount by which the property tax rate may exceed the rate described in

section 5 of this chapter equals the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the school corporation's qualified utility and insurance costs for the calendar year.

STEP TWO: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the school corporation's assessed valuation for the year.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one hundred (100).

As added by P.L.2-2006, SEC.169.

IC 20-46-6-7

Additional levy; advance from educational technology program

Sec. 7. A school corporation receiving an advancement for an educational technology program may annually impose a levy for the fund as provided in IC 20-49-4-22.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-8

Plan; school corporation outside South Bend

Sec. 8. (a) This section does not apply to a school corporation that is located in South Bend, unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must:

(1) after January 1; and

(2) not later than September 20;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-9

Plan; school corporation inside South Bend

Sec. 9. (a) This section applies only to a school corporation that is located in South Bend.

(b) This subsection does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(c) Before the governing body of the school corporation may collect property taxes for a fund in a particular year, the governing body must:

(1) after January 1; and

(2) before February 2;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-10

Form of plan

Sec. 10. (a) The department of local government finance shall prescribe the format of the plan.

(b) A plan must:

- (1) apply to at least the three (3) years immediately following the year the plan is adopted;
- (2) estimate for each year to which the plan applies the nature and amount of proposed expenditures from the fund; and
- (3) estimate:
 - (A) the source of all revenue to be dedicated to the proposed expenditures in the upcoming calendar year; and
 - (B) the amount of property taxes to be collected in the upcoming calendar year and retained in the fund for expenditures proposed for a later year.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-11

Publication of proposed plan or plan amendment

Sec. 11. If a hearing is scheduled for a plan, the governing body shall publish the proposed plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

As added by P.L.2-2006, SEC.169.

IC 20-46-6-12

Notice publication requirements

Sec. 12. A governing body shall publish a notice of the adoption or amendment of a plan in accordance with IC 5-3-1-2(b). This publication must be made not later than twenty (20) days after the county auditor posts and publishes the notice of the school corporation's tax rate for the ensuing calendar year.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-13

Remonstrance

Sec. 13. (a) In the first year that a plan is proposed, ten (10) or more taxpayers that will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication under section 12 of this chapter. The petition must set forth the taxpayers' objections to the proposed plan.

(b) After the first year a plan is proposed, ten (10) or more taxpayers that will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication under section 12 of this chapter. The petition must set forth the taxpayers' objections to any item in the proposed plan or amendment to the plan that does not concern a construction project that had previously been included in a plan.

(c) The county auditor shall immediately certify a petition filed

under this section to the department of local government finance.
As added by P.L.2-2006, SEC.169.

IC 20-46-6-14

Hearing

Sec. 14. (a) The department of local government finance shall within a reasonable time fix a date for a hearing on a petition filed under section 13 of this chapter. The hearing shall be held in a county in which the school corporation is located.

(b) The department of local government finance shall notify:

- (1) the governing body; and
- (2) the first ten (10) taxpayers whose names appear on the petition;

at least five (5) days before the date fixed for the hearing.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-15

Review; approval; department of local government finance

Sec. 15. After a hearing on the petition under section 14 of this chapter, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the governing body and the county auditor of the county. The department of local government finance may seek the recommendation of the tax control board with respect to the department of local government finance's determination.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-16

Appeal; judicial review

Sec. 16. A governing body may petition for judicial review of the final determination of the department of local government finance under section 15 of this chapter. The petition must be filed in the tax court not more than forty-five (45) days after the department of local government finance certifies its action under section 15 of this chapter.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-17

Plan; amendment

Sec. 17. (a) A governing body may amend a plan to:

- (1) provide money for the purposes of the fund; or
- (2) supplement money accumulated in the fund for the purposes of the fund.

(b) Subject to any notice and hearing requirements, a school corporation may amend a plan to include expenditures under IC 20-40-8-19.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-18

Public hearing on amendment not related to emergency

Sec. 18. (a) This section applies to an amendment to a plan that is required by a reason other than an emergency.

(b) The governing body must hold a public hearing on the proposed amendment. At the hearing, the governing body must declare the nature of and the need for the amendment and pass a resolution to adopt the amendment to the plan.

(c) The plan, as proposed to be amended, must comply with the requirements for a plan under section 10 of this chapter. The governing body must publish the proposed amendment to the plan and notice of the hearing in accordance with IC 5-3-1-2(b).

(d) An amendment to the plan:

(1) is not subject to the deadline for adoption described in section 8 or 9 of this chapter;

(2) must be submitted to the department of local government finance for its consideration; and

(3) is subject to approval, disapproval, or modification in accordance with the procedures for adopting a plan.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-19

Procedures; amendment related to emergency

Sec. 19. (a) This section applies to an amendment to a plan that is required by reason of an emergency that results in costs that exceed the amount accumulated in the fund for repair, replacement, or site acquisition that is necessitated by an emergency.

(b) The governing body is not required to comply with section 18 of this chapter.

(c) The governing body must immediately apply to the department of local government finance for a determination that an emergency exists. If the department of local government finance determines that an emergency exists, the governing body may adopt a resolution to amend the plan.

(d) An amendment to the plan is not subject to the deadline and the procedures for adoption described in section 8 or 9 of this chapter. However, the amendment is subject to modification by the department of local government finance.

As added by P.L.2-2006, SEC.169.

IC 20-46-6-20

Allowable plan provisions; use of money raised for a different purpose; borrowing from other funds

Sec. 20. An amendment adopted under section 18 or 19 of this chapter, may require any of the following:

(1) The payment of eligible costs from:

(A) money accumulated in the fund for other purposes; or

(B) money to be borrowed from other funds of the school corporation or from a financial institution.

(2) An increase in the property tax rate for the fund to restore money to the fund or to pay principal and interest on a loan. Any increase to the property tax rate for the fund is effective for

property taxes first due and payable for the year next certified by the department of local government finance under IC 6-1.1-17-16. However, the property tax rate may not exceed the maximum rate established under section 5 of this chapter.
As added by P.L.2-2006, SEC.169.